HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.421 of 2007

Between:

Padala Padmavathi

… Appellant

And

Smt. Pudi Krishnaveni and three others

… Respondents

::JUDGMENT::

Counsel for the appellant : Shri K. Surender Raj for Shri V. Jagapathi

Counsel for respondent No. 1 : Smt. P. Rajeswari

June 4, 2007

Per G.S. Singhvi, CJ

This is an appeal for setting aside order 1-5-2007 passed by the learned Single Judge, whereby he partly allowed the writ petition filed by respondent No.1 and set aside the declaration granted by the Election Tribunal/Junior Civil Judge, Parvathipuram in E.O.P No.1 of 2006 that respondent No.1 (the appellant herein) has been duly elected as Sarpanch of Tumbali Gram Panchayat.

The appellant and respondent No.1 contested election to the office of Sarpanch of Tumbali Gram Panchayat. Respondent No.1 was declared elected because she secured 600 valid votes as against 500 votes polled by the appellant.

The appellant challenged the election of respondent No.1 by filing a petition under Section 233 of the Andhra Pradesh Panchayat

Raj Act, 1994 read with Andhra Pradesh Panchayat Raj (Election Tribunals in respect of Gram Panchayats, Mandal Parishads and Zilla Parishads) Rules, 1995 (for short 'the Rules'). She pleaded that respondent No.1 had withdrawn her candidature on on 23-7-2006 and, therefore, she was not eligible to contest the election and the Returning Officer committed an illegality by including her name in the list of eligible candidates.

In the counter filed by her, respondent No.1 averred that he had filed two sets of nomination papers and, on being asked by the Returning Officer, withdrew one of them. She pleaded that her name was rightly included in the list of eligible candidates because one set of nomination papers had been accepted by the Returning Officer.

By an order dated 2-3-2007, the Election Tribunal quashed the election of respondent No.1 and declared the appellant as duly elected Sarpanch of the Gram Panchayat.

Writ Petition No.6186 of 2007 filed by respondent No. 1 for setting aside the order of the Election Tribunal was partly allowed by the learned Single Judge. He upheld first part of the order of the Tribunal but set aside the later part whereby the appellant had been declared elected to the office of Sarpanch. The learned Single Judge referred to Rules 4(i) and (ii) of the Rules, judgments of the Supreme Court in **Ram Pratap Chandel v. Chaudhary Lajja Ram**[1] and of the Division Bench of this Court in **Anjamma v. S. Pushpamma**[2] and held that non-impleadment of other candidates as parties to the election petition was fatal to the declaration granted by the Election Tribunal.

We have heard Shri K. Surender Raj, counsel for the appellant and Smt. P. Rajeswari, counsel for respondent No. 1 and are convinced that the order under challenge does not suffer from any legal infirmity warranting interference under Clause 15 of the Letters Patent.

Admittedly, in the election petition filed by her, the appellant did not implead the defeated candidates as party respondents. Therefore, the Election Tribunal did not have the jurisdiction to declare her as duly elected to the office of Sarpanch. In **Anjamma**'s case (supra), the Division Bench interpreted Rule 4(ii) of the Rules and held:

> "Rule 4(ii) of the Rules, 1995, as extracted above, clearly postulates that the election petitioner if so desires in addition to calling in question the election of the returned candidates, claim a declaration that he himself or any other candidate has been duly elected in which case he shall join as respondents to his petition all other candidates. The said rule specifically says unless the election petitioner impleaded all the candidates who contested the election he cannot be declared as elected in the absence of such parties. Significantly though when the respondent impleaded other contesting candidates to the Election Petition but the advocate who representing her filed a memo withdrawing the Election Petition against the other contested candidate. In view of the infirmity, the first respondent is not entitled to any declaration to declare her elected as Sarpanch of Alwanpalli village."

In view of the above stated legal position, we do not find any valid ground or justification to interfere with the order of the learned Single Judge.

With the above observation, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP No.785 of 2007 filed by the appellant for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

June 4, 2007

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[1] (1998) 8 SCC 564

[2] 2001 (1) ALT 235